

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:98CR7
	§	
QUINCY J. COOK	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 15, 2011 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Mandy Griffith.

On September 21, 1998, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 96 months imprisonment followed by a 3-year term of supervised release, for the offense of felon in possession of a firearm. Defendant began his term of supervision on July 16, 2007.

On October 28, 2009, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 50). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer; and (3) Defendant shall participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such

time as Defendant is released from the program by the probation officer. Defendant is ordered to submit to a drug test within 15 days of his release.

The Petition alleges that Defendant committed the following violations: (1) On September 4, 2009, Defendant was arrested by Las Vegas Metropolitan Police Department for possession of a stolen vehicle. Subsequent to the arrest, Defendant was transported to Clark County Detention Center where he remains in custody. Defendant has entered a plea of guilty and is scheduled for a November 9, 2009, sentencing; (2) On October 11, 2007, Defendant submitted a urine specimen that tested positive for marijuana; and (3) On May 29, 2008, Defendant was enrolled in a drug treatment program in the District of Nevada where he is currently being supervised. This program has a zero-tolerance policy which states, “the Defendant cannot consume any alcohol while participating in treatment.” On July 11, 22, and 30, 2008, Defendant violated this policy. Also, on June 18 and 25, 2008, Defendant failed to attend treatment sessions at WestCare treatment facility in Las Vegas, NV. Additionally, on May 17, 2008, and August 2, 2008, Defendant failed to submit a drug test and failed to return phone calls to his substance abuse counselor.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the June 15, 2011 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-one (21) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in El Reno, Oklahoma, if appropriate.

SIGNED this 7th day of July, 2011.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE